

SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Amy F. Sorenson (8947)
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,
Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,
Defendant/Counterclaim-Plaintiff.

**REDACTED
DECLARATION OF TODD M.
SHAUGHNESSY**

[ORIGINALLY FILED UNDER SEAL]

Civil No. 2:03CV-0294 DAK
Honorable Dale A. Kimball
Magistrate Judge Brooke C. Wells

SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Amy F. Sorenson (8947)
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

RECEIVED CLERK

2006 NOV 10 P 3:40

U.S. DISTRICT COURT
DISTRICT OF UTAH

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**DECLARATION OF
TODD M. SHAUGHNESSY**

**FILED UNDER SEAL PURSUANT
TO 9/16/03 PROTECTIVE ORDER,
DOCKET #38**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Todd M. Shaughnessy, declare as follows:

1. I represent IBM in the lawsuit brought by SCO against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003).

2. This declaration is submitted in support of Defendant/Counterclaim-Plaintiff IBM's various memoranda in opposition to SCO's motions for summary judgment.

3. Attached hereto are true and correct copies of the following documents:


- a) Exhibit 601 is a copy of an article by Peter Galli, titled "SCO Group Slaps IBM with \$1B Suit", from eWeek.com, dated March 6, 2003.
- b) Exhibit 602 is a copy of an article by Paula Rooney, titled "Update: CRN Interview: SCO CEO Defends \$1 Billion Lawsuit Against IBM", from CRN, dated April 24, 2003.
- c) Exhibit 603 is a copy of an article by John Blau, titled "Q&A: SCO's Chris Sontag on how Unix plus Linux Equals Trouble", from Computerworld, dated May 13, 2003.
- d) Exhibit 604 is a copy of an article by Graeme Burton, titled "McBride Blames IBM for 'Majority' of Linux Infringements", from Infoconomy, dated September 11, 2003.

- e) Exhibit 605 is a copy of an article by Andrew Orłowski, "SCO Sues IBM for \$1 Billion for 'Devaluing Unix'", from The Register, dated March 7, 2003.
- f) Exhibit 606 is a copy of an article by Brice Wallace, titled "Motion favors IBM in Unix dispute", from Deseret Morning News, dated December 6, 2003.
- g) Exhibit 607 is a copy of a document titled "Intellectual Property License Agreement for Linux", bearing Bates numbers SCO1303277-78.
- h) Exhibit 608 is a copy of an article by Egan Orion, titled "Groklaw Sends a Dear Darl Letter", from The Inquirer, dated September 20, 2003.
- i) Exhibit 609 is a copy of an article by Jay Wrolstad, titled "SCO Licensing Issue Riles Linux Users", from NewsFactor Network, dated July 28, 2003.
- j) Exhibit 610 is a copy of the transcript of the December 14, 2004 Deposition of Thomas Cronan.
- k) Exhibit 611 is a copy of the transcript of the March 3, 2006 Deposition of Edward Kennedy.
- l) Exhibit 612 is a copy of Hon. Brooke C. Wells' Order Granting Stipulation Regarding Certain Discovery Deadlines, dated May 15, 2006.
- m) Exhibit 613 is a copy of Hon. Brooke C. Wells' Order dated June 13, 2006.

- n) Exhibit 614 is a copy of the declaration of William Sandve, dated November 10, 2006.
 - o) Exhibit 615 is a copy of an article by Peter Galli, titled "SCO: IBM Suit Not About Linux", from eWeek, dated March 7, 2003.
 - p) Exhibit 616 is a copy of the transcript of the September 22, 2006 Deposition of Marc Rochkind.
 - q) Exhibit 617 is a copy of three CDs labeled SCO Linux 4.0, Powered by UnitedLinux, bearing bates numbers SCO1186815-817.
 - r) Exhibit 618 is a copy of a document titled "Contributing Member Registration Form", bearing Bates numbers OSDL 100398-402.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 10, 2006.

Salt Lake City, Utah



Todd M. Shaughnessy

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of November, 2006, a true and correct copy of the foregoing was hand delivered to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101



CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of November, 2006, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and delivered by CM/ECF system to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

/s/ Todd M. Shaughnessy

Index to Exhibits

- Exhibit 601:** *SCO Group Slaps IBM with \$1B Suit* by Peter Gali, eWeek.com, March 6, 2003
- Exhibit 602:** *Update: CRN Interview: SCO CEO Defends \$1 Billion Lawsuit Against IBM* by Paula Rooney, CRN, April 24, 2003
- Exhibit 603:** *Q&A: SCO's Chris Sontag on how Unix plus Linux Equals Trouble* by John Blau, Computerworld, May 13, 2003
- Exhibit 604:** *McBride Blames IBM for 'Majority' of Linux Inringements* by Graeme Burton, Infoconomy, September 11, 2003
- Exhibit 605:** *SCO sues IBM for \$1 Billion for 'Devaluing Unix'* by Andrew Orlowski, The Register, March 7, 2003
- Exhibit 606:** *Motion favors IBM in Unix dispute* by Brice Wallace, Deseret Morning News, December 6, 2003
- Exhibit 607:** Intellectual Property License Agreement for Linux bearing Bates numbers SCO1303277-78
- Exhibit 608:** *Groklaw Sends a Dear Darl Letter* by Egan Orion, The Inquirer, September 20, 2003
- Exhibit 609:** *SCO Licensing Issue Riles Linux Users* by Jay Wrolstad, NewsFactor Network, July 28, 2003
- Exhibit 610:** Transcript of December 14, 2004 Deposition of Thomas Cronan
- Exhibit 611:** Transcript of March 3, 2006 Deposition of Edward Kennedy
- Exhibit 612:** Hon. Brooke C. Wells' Order Granting Stipulation Regarding Certain Discovery Deadlines dated May 15, 2006
- Exhibit 613:** Hon. Brooke C. Wells' Order dated June 13, 2006
- Exhibit 614:** Declaration of William Sandve dated November 10, 2006
- Exhibit 615:** *SCO: IBM Suit Not About Linux* by Peter Galli, eWeek, March 7, 2003
- Exhibit 616:** Transcript of September 22, 2006 Deposition of Marc Rochkind
- Exhibit 617:** Three CDs labeled SCO Linux 4.0, Powered by UnitedLinux, bearing bates numbers SCO1186815-817
- Exhibit 618:** Contributing Member Registration Form bearing Bates numbers OSDL 100398-402